

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF NORTH CAROLINA  
WESTERN DIVISION

Case No. 5:24-CV-00291-M

GREGORY BILLINGS,

Plaintiff,

v.

WILLIAM OVERTON,

WAYNE JOHNSON,

KIMBERLY JOHNSON,

CHRISTOPHER JOHNSON, and

JUWAN JOHNSON,

Defendant.

ORDER

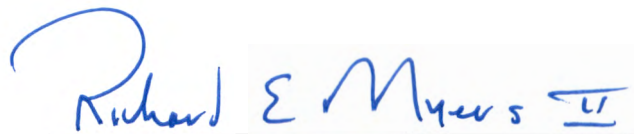
These matters come before the court on Defendant Overton's Motion to Dismiss [DE 21] and the Johnson Defendants' Motion to Dismiss [DE 18]. Pursuant to 28 U.S.C. § 636(b)(1) and Federal Rule of Civil Procedure 72(b), United States Magistrate Judge Kimberly A. Swank issued a memorandum and recommendation ("M&R"), recommending that this court dismiss Plaintiff's complaint for his failure to state a claim for relief. DE 34. Judge Swank instructed the Plaintiff to file any written objections to her recommendation on or before February 13, 2025. *Id.* No objections have been filed, and the matter is now ripe for consideration by this court.

A magistrate judge's recommendation carries no presumptive weight. The court "may accept, reject, or modify, in whole or in part, the . . . recommendation[ ] . . . receive further evidence or recommit the matter to the magistrate judge with instructions." 28 U.S.C. § 636(b)(1); *accord Mathews v. Weber*, 423 U.S. 261, 271 (1976). The court "shall make a de novo determination of those portions of the report or specified proposed findings or recommendations to which objection

is made.” *Id.* § 636(b)(1). Absent a specific and timely objection, the court reviews only for “clear error” and need not give any explanation for adopting the recommendation. *Diamond v. Colonial Life & Accident Ins. Co.*, 416 F.3d 310, 315 (4th Cir. 2005).

Upon careful review of the M&R and the record presented, and finding no clear error, the court ADOPTS the recommendation of the magistrate judge as its own. For the reasons stated therein, the Defendants’ motions [DE 18, 21] are GRANTED and Plaintiff’s complaint is DISMISSED WITH PREJUDICE. The Clerk of Court is directed to close this case.

SO ORDERED this 18<sup>th</sup> day of February, 2025.



RICHARD E. MYERS II  
CHIEF UNITED STATES DISTRICT JUDGE